

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

RANDY KIRK HARVEY, II,

Petitioner,

v.

UNITED STATES,

Respondent.

Case No. 2:22-cv-07267-SB

ORDER DISMISSING CASE

After Petitioner filed a letter requesting the return of property after his criminal case was closed (Dkt. No. [1](#)), the Court construed his letter as a civil complaint. Dkt. No. [9](#); *see also* [United States v. Martinson](#), 809 F.2d 1364, 1366–67 (9th Cir. 1987) (holding that district courts are to construe Rule 41(g) motions as civil complaints when no criminal proceeding is pending); [United States v. Ritchie](#), 342 F.3d 903, 906 (9th Cir. 2003); [United States v. Ibrahim](#), 522 F.3d 1003, 1007–08 (9th Cir. 2008).

The Court set deadlines for Petitioner to (1) pay the civil filing fee or file an application to proceed in forma pauperis (IFP), and (2) serve his complaint in compliance with Rule 4 and file proof of service. Dkt. No. [9](#). The Court warned that “[f]ailure to adhere to these deadlines may result in dismissal without prejudice.” *Id.* After Petitioner filed a document styled “Objection and Motion for Clarification of Issues” (Dkt. No. [10](#)) and a recusal motion (Dkt. No. [11](#)), the Court extended Petitioner’s deadline to pay the filing fee or file an IFP application to January 16, 2023, which was also his deadline for filing proof of service. Dkt. No. [15](#). Petitioner was again warned that “[f]ailure to adhere to these deadlines may result in dismissal without prejudice.” *Id.* (emphasis in original).

Petitioner has not paid the civil filing fee, filed an IFP application, or filed proof of service. Accordingly, this case is dismissed without prejudice.

IT IS SO ORDERED.

Date: January 26, 2023



Stanley Blumenfeld, Jr.
United States District Judge